

REMARKS

Claims 1-7 and 9 are pending in the instant application. By this amendment, Claim 1 has been canceled, without prejudice to the Applicants' right to pursue the subject matter of Claim 1 in this or other applications, and dependent Claims 2-5, 7, and 9 have been amended to incorporate the limitations of canceled Claim 1. Since Claims 2-5, 7, and 9 have been amended in form only, no new matter has been added by these amendments. Applicants believe that the amendments and remarks made herein place all pending claims in condition for allowance.

1. THE REJECTIONS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH, FOR LACK OF ENABLEMENT SHOULD BE WITHDRAWN

Claims 1-7, and 9 are rejected under 35 U.S.C. § 112, first paragraph, because the specification allegedly does not enable any person skilled in the art to which it pertains or with which it is most nearly connected to make the invention commensurate in scope with the claims. The Examiner indicates that the data presented in Exhibit D, submitted by Applicants on May 1, 2003 (hereinafter referred to as "Exhibit D"), which contained a compilation of data presented as examples in Applicants' copending application, would obviate the instant rejection if the information in Exhibit D were properly submitted, *i.e.*, submitted under oath by Applicants.

In response, Applicants identify the copending application as U.S. Patent Application No.: 10/188,905 which published as Patent Application Publication No.: US 2003/0072737, a copy of which is submitted herewith as Exhibit A. The Examiner is invited to Example 9 at page 27 therein, which is identical in content to the information previously submitted as Exhibit D.

In view of the foregoing, Applicants submit that the rejection for lack of enablement under 35 U.S.C. §112, first paragraph, has been obviated and should be withdrawn.

2. THE REJECTION FOR OBVIOUSNESS-TYPE DOUBLE PATENTING SHOULD BE WITHDRAWN

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claim 1 of copending application no. 09/547,220 (“the ‘220 application”). In particular, the Examiner contends that the Claim 1 of the copending ‘220 application would be encompassed by the method of Claim 1 of the present application.

In addition, Claim 1 has been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claim 1 of copending application no. 09/717,053 (“the ‘053 application”). In particular, the Examiner contends that the Claim 1 of the copending ‘053 application would overlap the method of Claim 1 of the present application.

Furthermore, Claim 1 has been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over Claim 1 of copending application no. 09/716,960 (“the ‘960 application”). In particular, the Examiner contends that the Claim 1 of the copending ‘960 application, would be encompassed by the present method of Claim 1 of the present application.

While Applicants do not agree with propriety of the rejection, Claim 1 has been canceled and Claims 2-5, 7, and 9 have been amended to incorporate the matter of canceled of Claim 1, in order to obtain allowance of these claims and without prejudice to Applicants’ right to pursue the canceled subject matter in this or other applications.

As such, the rejections of Claim 1 of obviousness-type double patenting have been obviated and should be withdrawn.

CONCLUSION

Entry of the foregoing amendments and remarks into the record of the above-identified application is respectfully requested. Applicants estimate that the remarks made herein place the pending claims in condition for allowance. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

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Enclosures